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09/528,846	03/20/2000	Doug Turner	013.0078	5404

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EXAMINER	
PARTON, KEVIN S	
ART UNIT	PAPER NUMBER
2153	

DATE MAILED: 12/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/528,846	Applicant(s) TURNER ET AL.	
	Examiner Kevin Parton	Art Unit 2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-19 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-19 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on 20 March 2000 is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5 .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1, 2, 4, 13, 14, 15, 16, and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Bodin et al. (USPN 6,061,733).

3. Regarding claim 1, Bodin et al. (USPN 6,061,733) teach a system for downloading portions of a remotely located network object, comprising:

a. A server facility configured to be accessed via an electronic data network and to send data corresponding to at least one portion of a network object to a client via the electronic data network (column 2, lines 14-16; column 4, lines 3-11). Note that in the reference, the server can provide requested files to the user in full or in portions.

b. A software delegate residing on the client and configured to control an amount of the data and a size of the at least one portion of the network object to be downloaded from the server to facility to the client based upon an operating state of the client (column 3, lines 6-10, column 4, lines 1-11). Note that in the reference, the client must be in operation for the download to take place. In addition, it must have a connection to the network.

4. Regarding claim 2, Bodin et al. (USPN 6,061,733) teach all the limitations as applied to claim 1. They further teach means wherein the electronic data network is the Internet (column 1, line 14; column 2, lines 15-17, 59-62). Note that in the reference, the download takes place over the Internet and html is used for the requests.

5. Regarding claim 4, Bodin et al. (USPN 6,061,733) teach all the limitations as applied to claim 1. They further teach means wherein the amount of data is a range of bytes and the size of the at least one portion is dependent on the operating state (column 3, lines 5-15). Note that in the reference, byte number delimits the portions and this decision can be based on the transmission rate of the connection.

6. Regarding claim 13, Bodin et al. (USPN 6,061,733) teach a system for facilitating downloading portions of a remotely located network object with means for:

a. Using a client computer to access a server facility via an electronic data network (column 2, lines 14-16; column 4, lines 3-11). Note that the reference is centered on the download of data from a server.

b. Receiving, at the client computer, portions of a network object from the server facility (column 4, lines 3-11). Note that in the reference, the server sends the portions of the file specified by the client.

c. Storing the portions of a network object within the client computer to create a completely downloaded copy of the network object is created locally (column 3, lines 44-46). Note that in the reference, the portion is downloaded to a temporary file.

d. Controlling a size of the portions of a network object received from the server facility (column 3, lines 6-10; column 4, lines 1-11). Note that in the reference, the client specifies the size of the file portions to be downloaded.

7. Regarding claim 14, Bodin et al. (USPN 6,061,733) teach all the limitations as applied to claim 13. They further teach means wherein the electronic data network is the Internet (column 1, line 14; column 2, lines 15-17, 59-62). Note that in the reference, the download takes place over the Internet and html is used for the requests.

8. Regarding claim 15, Bodin et al. (USPN 6,061,733) teach all the limitations as applied to claim 13. They further teach means wherein the size of the portions of a network object in the controlling step is a range of bytes (column 3, lines 5-15). Note that in the reference, byte number delimits the portions.

9. Regarding claim 16, Bodin et al. (USPN 6,061,733) teach all the limitations as applied to claim 13. They further teach means wherein the size of the portions of a network object in the controlling step is dependent on an operating state of the computer (column 3, lines 5-15). Note

that in the reference, portion size can be selected based on a number of factors included transmission rate and operating system.

10. Regarding claim 19, Bodin et al. (USPN 6,061,733) teach all the limitations as applied to claim 13. They further teach means wherein the controlling step is performed by a software delegate residing on the computer (column 3, lines 5-10). Note that the control of the portion sizes takes place on the client using the software delegate.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

12. Claims 3, 7, 8, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bodin et al. (USPN 6,061,733) in view of Young.

13. Regarding claim 3, although the system disclosed by Bodin et al. (USPN 6,061,733) (as applied to claim 1) shows substantial features of the claimed invention, it fails to disclose means wherein the software delegate is a Javascript applet.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Bodin et al. (USPN 6,061,733), as evidenced by Young.

In an analogous art, Young discloses a system for downloading of files or portions of file involving a software delegate wherein the software delegate is a Javascript applet (column 2, lines 48-54). Note that in the reference, the applet looks to multiple servers and can download a portion of the file from any.

Given the teaching of Young, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Bodin et al. (USPN 6,061,733) by employing the use of an applet for distribution of the software delegate. Applets benefit the system by allowing any type of client to run the application and to access files in portions. The benefits can more easily be distributed to a wide range of users if applets are used.

14. Regarding claim 7, Bodin et al. (USPN 6,061,733) teach A system for downloading portions of a remotely located network object, comprising:

a. A server facility configured to be accessed via an electronic data network and to send data corresponding to at least one portion of a network object to a client via the electronic data network (column 2, lines 14-16; column 4, lines 3-11). Note that in the reference, the server can provide requested files to the user in full or in portions.

b. A software delegate capable of residing on the client and configured to control an amount of the data and a size of the at least one portion of the network object to be downloaded from the server facility to the client based upon an operating state of the client (column 3, lines 6-10, column 4, lines 1-11). Note that in the reference, the client must be in operation for the download to take place. In addition, it must have a connection to the network.

c. A client agent, configured to run on an automatic data processing system, to access a storage facility of the automatic data processing system, to access the server facility via the electronic data network to receive data from the server facility via the electronic data network in accordance with the software

delegate (column 3, lines 6-10, column 4, lines 1-11). Note that in the reference, the client can accept data from the server according to the portions specified.

Although the system disclosed by Bodin et al. (USPN 6,061,733) shows substantial features of the claimed invention, it fails to disclose means wherein the software delegate is received from the server facility.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Bodin et al. (USPN 6,061,733), as evidenced by Young.

In an analogous art, Young discloses a system for downloading of files or portions of file involving a software delegate wherein the software delegate is received from the server facility (column 2, lines 48-54). Note that in the reference, an applet is used. Applets are downloaded from the server facility.

Given the teaching of Young, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Bodin et al. (USPN 6,061,733) by employing the download of the software delegate from the server facility. This would benefit the system by allowing any client with the proper software to run the application and to access files in portions. The benefits can more easily be distributed to a wide range of users if applets are used.

15. Regarding claim 8, Bodin et al. (USPN 6,061,733) teach all the limitations as applied to claim 7. They further teach means wherein the client agent is an Internet browser and the electronic data network is the Internet (column 1, line 14; column 2, lines 15-17, 59-62). Note

that in the reference, the download takes place over the Internet and html is used for the requests. Also note that the presentation of the results is delivered via a web page on a browser.

16. Regarding claim 9, although the system disclosed by Bodin et al. (USPN 6,061,733) (as applied to claim 7) shows substantial features of the claimed invention, it fails to disclose means wherein the software delegate is a Javascript applet.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Bodin et al. (USPN 6,061,733), as evidenced by Young.

In an analogous art, Young discloses a system for downloading of files or portions of file involving a software delegate wherein the software delegate is a Javascript applet (column 2, lines 48-54). Note that in the reference, the applet looks to multiple servers and can download a portion of the file from any.

Given the teaching of Young, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Bodin et al. (USPN 6,061,733) by employing the use of an applet for distribution of the software delegate. Applets benefit the system by allowing any type of client to run the application and to access files in portions. The benefits can more easily be distributed to a wide range of users if applets are used.

17. Regarding claim 10, Bodin et al. (USPN 6,061,733) teach all the limitations as applied to claim 7. They further teach means wherein the amount of data is a range of bytes and the size of at least one portion is dependent on the operating state (column 3, lines 5-15). Note that in the reference, byte number delimits the portions and this decision can be based on the transmission rate of the connection.

18. Claims 5, 6, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bodin et al. (USPN 6,061,733) in view of Perlman (USPN 6,237,039).

19. Regarding claim 5, although the system disclosed by Bodin et al. (USPN 6,061,733) (as applied to claim 1) shows substantial features of the claimed invention, it fails to disclose means wherein the operating state is an idle state.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Bodin et al. (USPN 6,061,733), as evidenced by Perlman (USPN 6,237,039).

In an analogous art, Perlman (USPN 6,237,039) discloses a system for download of data over the Internet based on operating state wherein the operating state is an idle state (figure 5). Note that in the reference, data is downloaded when the client is idle.

Given the teaching of Perlman (USPN 6,237,039), a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Bodin et al. (USPN 6,061,733) by employing the use of the operating system idle time to download data. This benefits the system by providing the user with the best possible performance while active and for a reliable download during downtime.

20. Regarding claim 6, although the system disclosed by Bodin et al. (USPN 6,061,733) (as applied to claim 1) shows substantial features of the claimed invention, it fails to disclose means wherein the operating state is a busy state.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Bodin et al. (USPN 6,061,733), as evidenced by Perlman (USPN 6,237,039).

In an analogous art, Perlman (USPN 6,237,039) discloses a system for download of data over the Internet based on operating state wherein the operating state is a busy state (figure 5). Note that in the reference, data download is suspended when the client is in use.

Given the teaching of Perlman (USPN 6,237,039), a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Bodin et al. (USPN 6,061,733) by employing the stoppage of download when the client is busy. This benefits the system by providing the user with the best possible performance while active and for a reliable download during downtime.

21. Regarding claim 17, although the system disclosed by Bodin et al. (USPN 6,061,733) (as applied to claim 16) shows substantial features of the claimed invention, it fails to disclose means wherein the operating state is an idle state.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Bodin et al. (USPN 6,061,733), as evidenced by Perlman (USPN 6,237,039).

In an analogous art, Perlman (USPN 6,237,039) discloses a system for download of data over the Internet based on operating state wherein the operating state is an idle state (figure 5). Note that in the reference, data is downloaded when the client is idle.

Given the teaching of Perlman (USPN 6,237,039), a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Bodin et al. (USPN 6,061,733) by employing the use of the operating system idle time to download data. This benefits the system by providing the user with the best possible performance while active and for a reliable download during downtime.

22. Regarding claim 18, although the system disclosed by Bodin et al. (USPN 6,061,733) (as applied to claim 16) shows substantial features of the claimed invention, it fails to disclose means wherein the operating state is a busy state.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Bodin et al. (USPN 6,061,733), as evidenced by Perlman (USPN 6,237,039).

In an analogous art, Perlman (USPN 6,237,039) discloses a system for download of data over the Internet based on operating state wherein the operating state is a busy state (figure 5). Note that in the reference, data download is suspended when the client is in use.

Given the teaching of Perlman (USPN 6,237,039), a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Bodin et al. (USPN 6,061,733) by employing the stoppage of download when the client is busy. This benefits the system by providing the user with the best possible performance while active and for a reliable download during downtime.

23. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bodin et al. (USPN 6,061,733) and Young as applied to claim 7 above, and further in view of Perlman (USPN 6,237,039).

24. Regarding claim 11, although the system disclosed by Bodin et al. (USPN 6,061,733) and Young (as applied to claim 7) shows substantial features of the claimed invention, it fails to disclose means wherein the operating state is an idle state.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Bodin et al. (USPN 6,061,733) and Young, as evidenced by Perlman (USPN 6,237,039).

In an analogous art, Perlman (USPN 6,237,039) discloses a system for download of data over the Internet based on operating state wherein the operating state is an idle state (figure 5). Note that in the reference, data is downloaded when the client is idle.

Given the teaching of Perlman (USPN 6,237,039), a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Bodin et al. (USPN 6,061,733) and Young by employing the use of the operating system idle time to download data. This benefits the system by providing the user with the best possible performance while active and for a reliable download during downtime.

25. Regarding claim 12, although the system disclosed by Bodin et al. (USPN 6,061,733) and Young (as applied to claim 7) shows substantial features of the claimed invention, it fails to disclose means wherein the operating state is a busy state.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Bodin et al. (USPN 6,061,733) and Young, as evidenced by Perlman (USPN 6,237,039).

In an analogous art, Perlman (USPN 6,237,039) discloses a system for download of data over the Internet based on operating state wherein the operating state is a busy state (figure 5). Note that in the reference, data download is suspended when the client is in use.

Given the teaching of Perlman (USPN 6,237,039), a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Bodin et al.

(USPN 6,061,733) and Young by employing the stoppage of download when the client is busy. This benefits the system by providing the user with the best possible performance while active and for a reliable download during downtime.

Conclusion

26. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please see the following:

a. Feigenbaum (USPN 6,339,785)

b. Feigenbaum (USPN 6,377,974)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Parton whose telephone number is (703)306-0543. The examiner can normally be reached on M-F 8:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (703)305-4792. The fax phone numbers for the organization where this application or proceeding is assigned are (703)746-9242 for regular communications and (703)746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

Kevin Parton
Examiner
Art Unit 2153

ksp
December 11, 2002

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